

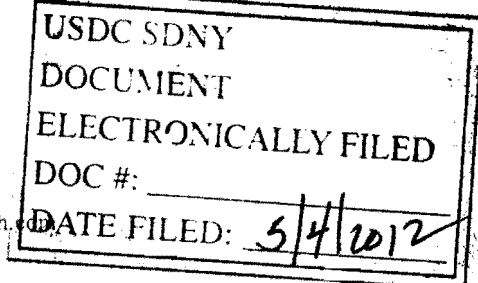
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May 2, 2012

MEMO ENDORSED

**Application Granted / Denied
So Ordered.**

Cathy Seibel

Cathy Seibel, U.S.D.J.

Dated: 5/3/12

VIA FAX (914-390-4278)

The Honorable Cathy Seibel
United States District Judge
United States District Court for the Southern District of New York
300 Quarropas Street
White Plains, New York 10601-4150

Re: Rose Camilleri v. Zales Corporation, 12 CV 3298 (CS) (LMS)

Dear Judge Seibel:

We represent Defendant Zale Corporation (incorrectly referred to in the Summons with Notice as "Zales" Corporation, hereinafter, "Defendant") in the above referenced matter. Defendant submits this letter to request an adjournment of its time to answer, or otherwise move, pursuant to 1(E) of Your Honor's Individual Practices.

On or about January 5, 2012, plaintiff Rose Camilleri ("Plaintiff") filed a Summons with Notice with the Clerk of the Supreme Court of the State of New York, Orange County (*Camilleri v. Zales Corporation*, Index No. 2012-165); *See* NY CPLR 304(a) & 305(b). In the Summons with Notice, Plaintiff alleges Defendant violated three federal statutes, *inter alia*, Title VII of the Civil Rights Act of 1964 ("Title VII"); the Americans with Disabilities Act ("ADA"); and the Age Discrimination in Employment Act ("ADEA"). On March 28, 2012 a copy of the Summons with Notice was served on the New York State Secretary of State.

As Plaintiff's Summons with Notice constituted an initial pleading for removal purposes, Defendant timely removed this matter on April 26, 2012 pursuant to 28 U.S.C. § 1446(b). *See e.g., Swain v. Brookdale Senior Living*, 2009 U.S. Dist. LEXIS 88835 (W.D.N.Y. Sept. 24, 2009) ("It is well-settled that a summons with notice will be found to constitute an initial pleading for removal purposes so long as it provides enough information for the defendant to intelligently ascertain removability.")

To date, Defendant has yet to have been served with a complaint. While the Summons with Notice provided enough information for Defendant to ascertain removability on grounds of federal question jurisdiction pursuant to 28 U.S.C. § 1331, Defendant is not in a position to submit an





The Honorable Cathy Seibel
Wednesday, May 02, 2012
Page 2

answer, or otherwise move, without receipt of a complaint setting forth, with specific factual allegations, the requisite elements of each claim asserted by Plaintiff.

Today, March 2, 2012, Plaintiff's counsel informed the undersigned that he does intend to file a complaint, however, is not sure by what date he will do so. The current deadline for Defendant to answer or otherwise move is tomorrow, May 3, 2012. *See* Fed. R. Civ. Pro. 81(c)(2). Accordingly, we respectfully request that Defendant's time to answer, or otherwise move, be stayed until two (2) weeks after such time that Plaintiff serves her complaint in accordance with this Court's rules. Plaintiff's counsel consents to this adjournment request.

Thank you for Your Honor's consideration of this request.

Respectfully yours,

SEYFARTH SHAW LLP

/s Howard M. Wexler
Howard M. Wexler

cc: Leonard Quartaro Esq. (via Fed Ex)

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Facsimile Transmission

Date: May 2, 2012

| RECIPIENT | COMPANY | PHONE NO. | FAX NO. |
|-------------------|--------------------|-----------|--------------|
| Hon. Cathy Seibel | U.S.D.C., S.D.N.Y. | | 914-390-4278 |

FROM: Howard Wexler

PHONE: (212) 218-3332

RE: *Rose Camilleri v. Zales Cororation,*
U.S.D.C., S.D.N.Y. 12 CV 3298(CS)(LMS)

REPLY FAX NO.: (917) 344-1314

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☒ Hard copy will not follow

☐ Per your request

☐ Please review and revise if necessary

☐ Please telephone me

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